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ABSTRACT

The collective bargaining agreement between Portland State University and Portland State University Chapter of the American Association of University Professors (AAUP) covering the period July 1, 1985-June 30, 1987 is presented. Items covered in the agreement include: definitions and unit recognition of AAUP, AAUP rights, exchange of information, dues deduction, released time, consultation, fair share, academic freedom and governance, promotion and tenure, rotating professorships, nondiscrimination, institutional career support and peer review, past practices, reserved rights of the university, progressive sanctions, grievances, arbitration, resolution of disputes, retrenchment, retrenchment hearings, salary, health and dental insurance, sabbatical leaves, parking, outside employment, notices and communications, indemnification, strikes and lockouts, and separability. Appended are four forms concerning: conscientious objection, grievance, grievance--request for review, and notice of intent to arbitrate. (SW)

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AGREEMENT

BETWEEN

PORTLAND STATE

UNIVERSITY

AND

AAUP-PSU

JULY 1, 1985 THROUGH JUNE 30,1987

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HE019933

COLLECTIVE BARGAINING AGREEMENT

between

PORTLAND STATE UNIVERSITY CHAPTER,
AMERICAN ASSOCIATION OF UNIVERSITY PROFESSORS

and

PORTLAND STATE UNIVERSITY

July 1, 1985 Through June 30, 1987

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This Collective Bargaining Agreement, entered into as of the 1st day of July, 1985 is between the State of Oregon, acting by and through the State Board of Higher Education on behalf of Portland State University, and the Portland State University Chapter of the American Association of University Professors.

Article 1. RECOGNITION

Pursuant to the certification of the Oregon Employment Relations Board dated March 8, 1978 (Case C-381), the University recognizes the Association as the exclusive representative of all members of the bargaining unit established in the certification for the purpose of collective bargaining on matters of employment relations as defined by law.

Article 2. DEFINITIONS

As used in this Agreement, except where the context plainly requires a different meaning or where a different meaning is stated:

1. "Association" means the Portland State University Chapter of the American Association of University Professors (AAUP-PSU).

2. "University" means Portland State University and/or the Oregon State Board of Higher Education as the public employer. For purposes of this Agreement "University" is a legal term and is not used (except occasionally) in the inclusive sense in which it refers to faculty, students, administration, programs, buildings, and campus.

3. "Member" means a public employe who is included in the bargaining unit.

4. "Unit" or "bargaining unit" means the employes, collectively, certified for purposes of collective bargaining by the Oregon Employment Relations Board, March 8, 1978 (Case C-381).

5. "Agreement" means all of the definitions, provisions, and terms set forth in this contract consisting of 34 articles, excluding titles of articles, headings, and preamble, which are inserted solely for convenience of reference and shall not be deemed to limit or affect the meaning, construction or effect of any provision of this contract. The Memorandum of Understanding is a noncontractual understanding between the University and the Association.

6. "Days" means calendar days, except as otherwise defined in Article 17 (Grievances), Section 3(c).

7. "Departments" includes departments, programs, and other similar administrative units.

8. "Meet," "confer," "consult," mean listen, communicate, enter into dialogue.

9. Pronouns of masculine, feminine or neuter gender imply each other.

10. The singular includes the plural.

11. "ERB" means the Employment Relations Board of the State of Oregon.

Article 3. RIGHTS OF THE ASSOCIATION AS AGENT

Section 1. The Association shall have reasonable use of University facilities and services, including mail, telephone, duplicating, computing, audio-visual and meeting rooms as provided in University Administrative Rules, and will pay the customary charges for such services.

Section 2. The University shall provide furnished office space to the Association in Room 232 of Smith Memorial Center or alternative suitable office space during the term of the Agreement. The Association agrees to reimburse the University for the use of the office space at the prevailing rate as determined by the University on July 1 of each year throughout the term of this agreement. The Association also agrees to reimburse the University for office space on a monthly basis with such reimbursement to be made in advance.

Section 3. The University shall provide, for the exclusive use of the Association, one (1) bulletin board of suitable size, centrally located in Smith Memorial Center.

Section 4. Employes of the Association shall be eligible for staff parking permits, subject to University regulations.

Section 5. The University agrees to print copies of this Agreement at its expense within sixty (60) days after the Agreement is signed and to provide a copy to each member then or thereafter employed. The University also agrees to provide the Association without charge 100 copies of the Agreement. The Association may purchase additional copies from the University.

Article 4. EXCHANGE OF INFORMATION

Section 1. During the term of this Agreement, the University shall make available to the Association within a reasonable time after receiving a written request therefor, all factual information reasonably required for the Association to administer this Agreement and to negotiate subsequent agreements.

Section 2. The University shall provide the Association periodically on request and within fifteen (15) days a computer tape which lists the following information concerning all academic staff members of the University: name, mailing address, department, rank, year of promotion, type of appointment, term of service, highest degree earned, year highest degree granted, institution granting highest degree, distribution of FTE, annual salary rate, leave dates and status, and

such other information as may be agreed upon from time to time. The Association shall reimburse the University at its customary billing rates for the programming expense and production costs of these tapes.

Section 3. The University will provide the Association an annual report of (a) the amounts of money, by major source, used for salary adjustments; and (b) the amounts of across-the-board, merit, and promotional increases; corrections of salary anomalies; individual increases; and other by type.

Section 4. Within fifteen (15) days of the effective date of the resignation or retirement of a member, or the date of a death of a member, the University shall send notice thereof to the Association.

Section 5. At the time the University sends a notice of termination to any member of the bargaining unit, a copy of such notice shall be sent to the Association.

Section 6. Within fifteen (15) days of the execution of this Agreement and any time a change is made, the University shall send the Association the name of the person responsible for complying with Sections 1 through 4 of this Article.

Section 7. The University reserves the right to charge the Association at customary billing rates for the costs of file searching, analysis, and reproduction of information furnished in compliance with this Article. When the University expects to make a charge, it will furnish the Association an estimate of the cost and obtain Association authorization before proceeding to comply with the request.

Article 5. DUES DEDUCTION

Upon written request on a form provided by the Association and approved by the University, members of the Association may have regular dues deducted from their paychecks in amounts and at times certified by the Treasurer of the Association.

Authorization to deduct dues shall remain valid until written notice is given to the University by the member to cancel the authorization.

The University will, in the month following the deduction, send payment to the Association for the total amount so deducted accompanied by a listing identifying the members and amounts for whom the deductions are being paid.

Article 6. RELEASED TIME

Up to six (6) members of the Association may be released from all duties not directly related to teaching and scholarly endeavor for Winter and Spring terms, 1986-87 for the purpose of preparing and participating in the negotiation of a successor agreement.

In addition, the member designated by the Association as Chief Negotiator shall be released from teaching one (1) course during Winter and Spring terms, 1986-87.

A member whom the Association designates as its Grievance Officer will be released from all duties not directly related to teaching and scholarly endeavor for the period of this Agreement.

The activities performed on behalf of members of the unit by those permitted released time under this Article shall be credited as service to the University.

Article 7. CONSULTATION

Section 1. The Association and the President of the University or his designee agree to meet at the request of either party to discuss matters pertinent to the implementation or administration of this Agreement. The parties shall meet within ten (10) days of receipt of a written request for a meeting. The request shall contain an agenda of items to be discussed.

Section 2. If mutually agreeable, the parties may meet to discuss employment matters.

Section 3. The parties understand and agree that meetings held as provided in Sections 1 and 2 of this Article shall not constitute or be used for the purpose of contractual negotiations. Neither shall such meetings be used in lieu of the grievance procedure provided in Article 17 (Grievances).

Article 8. FAIR SHARE

Section 1. The Association may conduct a secret mail ballot election among members of the bargaining unit to determine whether there shall be a fair share agreement.

a. A majority of affirmative votes of those voting in the election shall establish a fair share agreement.

b. The exact wording and form of the election ballot shall be determined by agreement between the President of the University and the Association. The Association shall give the President of University at least fifteen (15) days notice of its intention to conduct a fair share election. The President, or designee, shall meet promptly with a representative of the Association to prepare the ballot.

c. The Association agrees to conduct the election so as to provide a period of no less that fifteen (15) days within which bargaining unit members may return ballots and to provide an opportunity for all bargaining unit members to participate by mailing ballots to each bargaining unit member with instructions regarding voting procedure and the deadline for return.

d. The Association agrees that the opening and counting of the secret ballots shall be in the presence of two (2) representatives as observers designated by the President of the University.

e. The Association and University agree that a record of those members of the bargaining unit who have returned ballots shall be kept by the Association during the election and that such information shall be available to any bargaining unit member upon request to the Association, but in no event shall ballots be counted until after the deadline for return.

Section 2. Beginning in the next payroll deduction period following the certification of an affirmative result in the fair share election and the receipt by the University of a list of members of the Association, the University will deduct monthly from the salary of each person in the bargaining unit who is not a member of the Association a sum equivalent to local Association dues. Similar deductions will be made in a similar manner from the salary of new faculty who do not become members of the Association within thirty (30) days after the effective date of their employment.

Section 3. Rights of nonassociation of employes based on religious tenets or conscientious objection shall be protected. Religious objectors shall pay the fair share amount to a nonreligious charity in accordance with the applicable procedures in ORS 243.666. Conscientious objection to fair share payments must be made in writing to the President, AAUP-PSU. The objector must submit, in two copies, an affidavit in the form displayed in Appendix A of this Agreement. Upon receipt of this affidavit the President, AAUP-PSU, shall forward within ten (10) days one copy of it to the payroll office, PSU. From the date of receipt of the affidavit, the University shall continue to deduct the equivalent of fair share payments, but shall make the payments to the PSU Unrestricted Student Scholarship Fund.

Article 9. ACADEMIC FREEDOM AND GOVERNANCE

Section 1. The University recognizes the paramount importance of academic freedom in an institution of higher education and reaffirms its continuing commitment to the protection of the principles of academic freedom, as defined in OAR 580-22-005.

Section 2. Notwithstanding the exclusive right of the association to negotiate and reach agreement on terms and conditions of employment, recognized in Article 1, and the right of the University to carry out its ordinary and customary functions of management, recognized in Article 15 (Reserved Rights of the University), the parties agree that it is mutually desirable that the collegial system of shared governance be maintained and strengthened so that faculty will have a mechanism and procedures, independent of collective bargaining, for appropriate participation in the governance of the University. To that effect, the Portland State University Faculty Constitution shall remain in existence for the duration of this Agreement subject to the provisions of IMD 1.120 through 1.126.

Section 3.

a. Except as provided in subdivision (b) of this section, Sections 1 and 2 of this Article are statements of intent and policy and are not subject to Article 17 (Grievances) and Article 19 (Contract Matters: Resolution of Disputes) of this Agreement.

b. An allegation that the Faculty Constitution has been abrogated is grievable.

c. Alleged misapplication or misinterpretation of the Faculty Constitution is not subject to Article 17 (Grievances) or Article 19 (Contract Matters: Resolution of Disputes) of this Agreement, but such allegations may be grieved through other University grievance procedures.

Article 10. PROMOTION AND TENURE

Section 1. Portland State University Policy and Procedures for Promotions, the Award of Tenure and Salary Increases dated March 21, 1979, which specify the means of implementation of OAR 580-21-100 through 580-21-140, shall remain in effect with respect to members of the bargaining unit, except as modified by this Agreement or as provided for in Section 2 of this Article.

Section 2. The University reserves its rights to alter, amend, modify, make additions or deletions to the University guidelines and Oregon Administrative Rules on promotion, the award of tenure and salary increases, after (a) consultation with the Association on changes in criteria and (b) agreement with the Association on changes in procedure.

Section 3. Except as provided for by the Portland State University Statement on Policy and Procedures for Promotions, the award of Tenure and Salary Increases, and the Oregon Administrative Rules it implements, the University will not employ faculty members, on 0.50 FTE or more, for more than seven (7) FTE years without the awarding of tenure.

Section 4. The University will not arbitrarily reduce the FTE of any faculty member for the express purpose of avoiding its obligation not to employ a faculty member, on 0.50 FTE or more, for more than seven (7) FTE years without the awarding of tenure.

Section 5. For the purpose of this Article, faculty members include only members of the bargaining unit assigned to an academic program or department; a division, school, or college; the Library and the Counseling Center.

Article 11. ROTATING PROFESSORSHIPS

Section 1. When a department is authorized to fill a tenure-track position, it may, with the approval of the President, convert this position to a rotating position, to be filled by visiting scholars on

fixed-term contracts. The department will not be required to provide annual justification for continuation of the position.

The President may review the position during the third year. If the President makes a finding that the use of the position is not serving the purpose for which the position was intended, he may withdraw authorization for use of the position as a rotating professorship. If the President does not make such a finding, authorization for this use of the position will be continued for five years. Appointments under this Article are subject to the normal academic review and approval procedures.

Section 2. Any position established under the terms of this Article is subject to elimination or reduction under the terms of Article 20 (Retrenchment).

Section 3. The University and Association agree that any alleged violation of this Article shall be grievable solely by the Association under the terms of Article 19 (Contract Matters: Resolution of Disputes), but in no event shall disputes regarding this Article be arbitrable under the terms of Article 18 (Arbitration).

Article 12. NONDISCRIMINATION

The University and the Association will not discriminate against any member with respect to wages, hours or any terms of conditions of employment, or in the application of the provisions of this Agreement by reason of age, handicap, marital status, national origin, race, religion, sex, sexual preference, or veteran status, or by reason of membership or non-membership in the Association.

The Association agrees to support the University in the fulfillment of its affirmative action obligations.

Article 13. INSTITUTIONAL CAREER SUPPORT-PEER REVIEW

Preamble. Recognizing the traditional and current importance of tenure as protection of the exercise of academic freedom, and recognizing the importance of competent teaching, research and community service, the following Institutional Career Support-Peer Review plans have been agreed upon.

Section 1. Objectives. The intent of the Institutional Career Support-Peer Review process is to promote and sustain high standards of performance and professional development for all unit members holding tenured positions at Portland State University, regardless of their particular function.

The following are specific purposes addressed by this plan:

a. To provide a positive and systematic process for career review and development planning, involving the member and a supportive group of peers.

b. To provide institutional support for the realization of a mutually agreed upon professional development plan. Career review and plan will center on the individual's particular past and desired future contributions to the member's academic unit.

c. To assure a balance between the personal commitment to specific goals on the part of the member, the institutional support necessary to help achieve these professional goals, and the goals of the relevant department as formulated by its faculty.

d. To provide recognition for demonstrated high standards of professional, institutional and public service.

Section 2. Review Committee.

a. Each member holding tenure shall be assigned a review committee, normally composed of three (3) persons, whose responsibilities are set forth in 3 below. The faculty of each department (or other appropriate unit) shall adopt formal procedures for the selection of members of these committees. These procedures must be published and distributed to all members of the organizational unit to which they apply. They must also be filed and approved in the Office of Academic Affairs as part of the departmental guidelines.

b. Members of review committees may be persons outside the department and when appropriate, qualified persons outside the University.

c. Alterations in the foregoing procedures may be necessary due to the special problems of small departments, of persons holding appointments in more than one department, etc. Such alterations shall be made in consultation with the Vice President for Academic Affairs.

Section 3. Procedures and Committee Responsibilities.

a. Each tenured member eligible for review according to a departmental schedule (see seven (7) below) shall first meet with the assigned review committee for an informal discussion concerning the member's work, professional needs, difficulties, and goals for future professional development. To promote maximum candor, no record of the substance of this meeting will be kept, and the discussion will be regarded as confidential. Prior to this first meeting, the member will furnish the committee a current resume and a narrative review of the member's past professional achievements and plans for the future.

b. Following this meeting the review committee shall meet within three (3) weeks to determine whether the faculty member's past record and future plans are such that procedures (c) through (h) are required. A report summarizing the review committee's decision will be submitted to the department head.

c. If further procedures are required, the individual under review will give the committee within one (1) academic quarter a brief written

plan for professional activities and development over a specified period of years.

d. After the review committee has received the plan in (c) above, it shall meet again with the individual to determine jointly a formal development plan and what reasonable special institutional support may be necessary to carry out the plan. This joint recommendation shall be sent to the department head no later than March 1 of the year of eligibility. The department head will forward the joint recommendation together with the department head's recommendation along the usual channels. If the institutional support required to carry out the plan is not provided, the individual will not be held responsible for failure to complete the plan. In this circumstance the individual will produce, in consultation with the assigned committee, an alternate plan.

e. During the period covered by the plan, the review committee, the department head, the dean, and other persons able to provide help shall be available to the individual to provide all possible assistance, consultation, and advice. The person being reviewed will keep in touch with the assigned committee concerning progress made towards reaching the goals of the plan. Since by its very nature scholarly and creative work is unpredictable, an individual shall be free at any time to propose to alter revise, supplement, or abandon a particular plan for professional development. The member should, however, obtain approval for any such change from the assigned review committee and department head.

f. At the end of the period covered by the professional development plan, the individual shall present the results or accomplishments of the plan to the review committee and other interested persons including the department head, in the most appropriate fashion.

g. If, in the judgment of the majority of the review committee, the professional development plan has been successfully concluded the review committee shall so inform the individual being reviewed and the department head in a statement signed by the members of the committee. A minority report of the committee may accompany this statement. A copy of the complete statements shall also be sent to the appropriate departmental committees dealing with pay and promotion. Based on its evaluation of the work done, the review committee may, at its discretion, include in its report specific recommendations to the department head or appropriate departmental committees concerning promotion, merit pay, etc.

h. If, on the other hand, the committee finds that the proposed professional development plan has not been completed within the period agreed upon, it shall present to the individual written suggestions outlining how the situation may reasonably be remedied. The committee shall not report such action to the department head or to departmental committees until the individual in question has had a reasonable opportunity (within one (1) academic term) to discuss the committee's suggestions and possible alternatives with the committee.

Section 4. Frequency of Peer Review. Reviews will normally take place every five (5) years (scheduling to be at departmental discretion). They may take place more often at the request of an individual or at the end of a planned period of professional activities and development as determined jointly by the individual and the assigned committee. No review will take place within a three (3) year period immediately prior to an individual's mandatory retirement date, unless it has been recommended by the committee as a result of a previous review.

Section 5. Rewards. It will be the responsibility of the departmental Promotional Tenure and Salary Committee(s) and/or the department head, the appropriate dean, Vice President for Academic Affairs, and President to ensure that the promotion/merit reward system be maintained and supported so as to provide recognition for excellence. In addition, the University agrees to establish a career support fund in the amount of $25,000 per year during the term of this agreement for the purpose of supporting development plans consistent with this Article.

Section 6. Additional Provisions.

a. Nothing in this article shall be used to limit the freedom of a member to do the research or the scholarly or creative work of the member's choice or to carry out this work in a manner the member regards as appropriate.

b. Refusal of a tenured professor to present a plan for professional development to the assigned review committee or otherwise to cooperate with the committee (see Section 3 above) shall not be used as prima facie evidence of failure to perform academic responsibilities.

c. No plan for professional development shall commit a member to an activity over which the member does not have substantial control (e.g. a plan may call for writing a book, but not for publishing it).

Section 7. Implementation. Each department shall adopt a schedule (consistent with Section 4 above) and procedures (consistent with on (1) in Section 2 above) for implementing reviews beginning with the 1982-83 academic year in such a way as to avoid overloading the review system in its first years.

Section 8. Amendments. Four (4) years after the implementation of this document a committee consisting of two (2) members appointed by the Association and two (2) members appointed by the University administration shall review the preceding procedures and their results and shall make recommendations for any alterations which appear to be desirable. Part of the review process shall be solicitation of comments and opinions from all members holding tenured positions at PSU.

No alterations shall become effective until they have been approved by the Association and the University.

Section 9. Nothing herein shall preclude assessment of the need for an improved plan, assessment of any improvement plan or the assessment of the outcome of the plan by the department head.

Article 14. PAST PRACTICES

Section 1. All well established practices and policies in effect on January 1, 1979 and in effect on the date this Agreement is executed concerning terms and conditions of employment which significantly affect members shall be maintained for the period of this Agreement unless modified by this Agreement or by mutual consent.

Any ambiguities between past practices as herein defined and other Article of this Agreement shall be resolved in favor of the other Articles.

Section 2. Nothing in this Agreement shall be construed to deny or diminish the opportunities and responsibilities of members to participate directly, within regularly established procedures, in the formation and recommendation of educational policy within the University, its colleges, schools, departments and institutes.

Article 15. RESERVED RIGHTS OF THE UNIVERSITY

The University retains and reserves to itself all rights, powers, authority and responsibilities vested in it, whether exercised or not, including but not limited to the right to plan, govern and control the University and in all respects carry out its ordinary and customary functions of management. All such rights, powers, authority and responsibilities are retained by the University subject only to those limitations expressly imposed by this Agreement. Without limiting the foregoing, the University expressly reserves the right to make final decisions with respect to members to appoint, reappoint, promote or award indefinite tenure to them.

Article 16. PROGRESSIVE SANCTIONS

Section 1. Responsibilities of the Members. Members of the bargaining unit shall be available to perform duties during the period of their contractual appointments, as defined by the Notice of Appointment and the position description. Duties are normal duties of University faculty members. Among those duties are scheduled and unscheduled teaching; academic advising of students, including provision for regularly scheduled office hours; scholarly activities; professionally related public service; administrative activities, including assistance in the admission, orientation and registration of students and service on committees; student support service activities; attendance at spring commencement (which shall be conducted as a secular activity), once every three (3) academic years; and course and curriculum planning.

Section 2. Cause. A member is subject to sanction for cause. Cause for the imposition of sanctions is defined as follows:

a. Failure to carry out responsibilities as defined in Section 1 of this Article.

b. Failure to perform the responsibilities of an academic staff member, arising out of one's particular assignment, toward students, toward the academic discipline, toward colleagues, or toward the institution in its primary educational and scholarly functions and secondary administrative functions of maintaining property, disbursing funds, keeping records, providing living accommodations and other services, sponsoring activities, and protecting the health and safety of persons in the institutional community. Evidence to demonstrate cause under the standard set forth in this subsection may include, but is not limited to, evidence of incompetence, gross inefficiency, default of academic integrity in teaching, research, or scholarship, and intentional or habitual neglect of duty. (Although the effect of absence of teaching and/or research faculty is difficult to measure, unauthorized or unjustified absence from class, research, counseling activities or other scheduled duties in excess of five (5) consecutive scheduled or regular work days is sufficient basis for monetary sanction.)

c. Cause as defined in OAR 580-21-325 (1)(a) and (b) and OAR 577-41-010(2)(b) and (c).

Section 3. Progressive Imposition of Sanctions: Sanctions Available. Recognizing the importance of counseling in the schemes of corrective discipline, the parties agree that counseling will take place before sanctions are imposed. Further, the parties agree that sanctions, when imposed, will progress from minor to severe for repeated failure to meet professional obligations. However, in some circumstances, actions or omissions, which have resulted or will result in irreparable harm to the academic community or members thereof, may require the imposition of severe sanctions in the first instance. Sanctions shall include oral reprimand, oral reprimand with notation to the personnel file, written reprimand, suspension with pay, denial of salary increase, suspension without pay, denial of promotion, reduction in pay, reduction in rank and discharge.

Section 4. Procedures for the Imposition of Sanctions.

a. Sanction of Oral Reprimand. The sanction of oral reprimand may be imposed by the appropriate administrative officer if the officer believes that there is cause to warrant the sanction.

b. Sanctions More Severe than Oral Reprimand. Complaints alleging that an academic staff member has engaged in conduct such as to warrant the imposition of sanctions more severe than oral reprimand shall be filed with the President of the University or a deputy. (Hereinafter the words President or a deputy shall be understood to refer to the President of the University or a administrative officer designated by the President.) Such complaints shall be in writing and shall state specifically the facts believed to constitute the grounds for the imposition of such sanctions. Upon receiving such written complaint, the President shall promptly refer it to an appropriate administrative officer and shall also have a copy of the

written complaint delivered to the academic staff member in person or sent by certified mail to a last known address. The administrative officer shall fully explore the possibility of a settlement mutually acceptable to the academic staff member and the officer. If no mutual settlement is effected, the following procedures shall apply.

1. Written reprimand. If in the judgment of the administrative officer to whom the complaint has been referred, the preponderance of the evidence supports the complaint against the academic staff member, the officer may determine that the imposition of a sanction of written reprimand is warranted. After one (1) year from the date of a written reprimand or notation of an oral reprimand, if no further sanction has been imposed against a faculty member, the written reprimand or notation shall be removed from the member's file.

2. Sanction More Severe than Written Reprimand. If the administrative officer believes that a sanction more severe than a written reprimand is called for, a notice of intent to impose severe sanction shall be served either personally upon the member or by certified mail (return receipt requested) to the member's address of record. The notice shall contain a description of the alleged act(s) or omission(s), date(s), time(s), place(s) and proposed sanction. In addition, the notice must inform the individual of procedural protections available including the right to a review and an opportunity for hearing before a committee of peers prior to the imposition of sanctions and the right to file a grievance at Step Two subsequent to the imposition of sanctions.

c. Suspension of the faculty member during the pendency of proceeding is justified only if immediate harm to the member or others is threatened by the member's continuance.

d. Within five (5) days of the receipt of notice to impose severe sanction a member may request a review and a hearing by an ad hoc committee of peers. The committee shall be constituted as follows: within two (2) working days of the receipt of the request for review, the President shall appoint one member, and the Association shall appoint a second member to serve; the two (2) members thus selected shall, within two (2) days of their selection, choose a third member who shall serve as chairperson. The ad hoc committee shall within ten (10) days of selection review the matter and hold a hearing, if requested, and shall within fifteen (15) days of selection issue a report to the President stating whether in their opinion there is cause to impose the sanction.

e. In the event a hearing is held, the following procedures shall apply.

1. The member shall appear at the hearing and may be accompanied and assisted by other persons, including counsel.

2. The University shall appear at the hearing and be represented by a person designated by the President. The University's representative may be accompanied and assisted by other persons, including counsel.

3. Hearings shall be open unless closed by request of the member or requirement of law. A verbatim record of all hearings shall be made.

4. During the hearing an opportunity shall be provided for the member and the University's representative to present brief opening and closing statements and for both parties to present evidence and testimony and to call and cross-examine witnesses.

5. The chairperson of the ad hoc committee shall preside at the hearing and over the deliberations of the committee. The chairperson shall have authority to rule upon questions of admissibility of evidence and to exclude evidence which is irrelevant, untrustworthy, and unduly repetitious.

6. The ad hoc committee shall describe the issues considered, make its findings of fact and recommendations based on those findings in a written report to the President.

7. Dissenting opinions, if any, by members of the ad hoc committee may be submitted with the report to the President.

f. The President shall upon consideration of the ad hoc committee's report impose the sanction or conclude the matter.

g. When sanction has been imposed a member may take advantage of the grievance procedure in appealing the actions of the President. In matters not involving academic judgments as defined in Section 3, Article 17 (Grievances), issues of procedure and substance may be grieved. In matters involving academic judgment issues of procedure and sufficiency of evidence may be grieved.

h. Under no circumstances may the sanction of reduction in rank or discharge be implemented until the individual has exhausted available administrative remedies under this agreement or fails to file a timely appeal from a decision on the grievance.

i. The University and Association agree that the sanction procedures described in this Article shall be in lieu of those procedures described in Division 21, Chapter 580 and Division 41, Chapter 577 of the Oregon Administrative Rules which shall have no application to members of the bargaining unit. Notwithstanding the limitations prescribed in Article 18 (Arbitration), the authority of an arbitrator shall extend to the settlement of all issues identified as grievable in this article.

Article 17. GRIEVANCES

Section 1. Purpose. The purpose of this Article is to provide a procedure that will promote prompt and efficient investigation and resolution of grievances. The parties encourage informal resolution of grievances whenever possible and to that end encourage open communication between members and administrators so that resort to formal procedure will not normally be necessary. The University is not obliged to observe any other procedure for the resolution of grievances as that term is hereby defined.

Section 2. Resort to Other Procedures. If, prior to seeking resolution of a dispute by presenting a grievance hereunder, or while the grievance proceeding is in progress, a member seeks resolution of the matter through any agency outside the University, whether administrative or judicial, the University shall have no obligation to entertain or proceed further with the matter pursuant to this grievance procedure or pursuant to Article 18 (Arbitration).

Section 3. Definitions.

a. The term "grievance" is defined as an allegation that there has been a violation, misinterpretation or improper application of the provisions of this Agreement. The term "grievance" shall not include complaints related to matters of academic judgment. For the purpose of this Agreement, "academic judgment" shall mean the judgment by faculty and administrators (a) concerning academic standards, competence and performance as these relate to appointment, reappointment, promotion, tenure or merit salary increases and (b) concerning curricula and educational policy.

b. "Grievant" means one or more members of the bargaining unit alleging damage or injury by the act or omission being grieved.

c. "Day" means a day when classes or examinations are scheduled and held in accordance with the official academic calendar of the University, excluding Saturdays and Sundays.

d. "Cognizant Vice President" means the Vice President who is in the reporting line of a given academic staff member or other Portland State University officer with academic rank who reports directly to the President of the University, whether or not such person holds the title of Vice President.

Section 4. General Provisions.

a. A grievant has the right of self-representation at any step in the grievance procedure and at any formal step may choose to be accompanied or represented by counsel or any other person.

b. The Association has the right to be present at, and to participate in, any formal step in the grievance procedure, but shall not interfere with the right of self-representation.

c. The parties may agree to modify the time limits in any step of the grievance procedure. At formal steps, agreement to modify time limits shall be in writing.

d. Failure at any step of this procedure to request review of a decision within the specified time limits, including any extensions thereof, shall be considered acceptance by the grievant of the decision rendered at the previous step. Failure of the administration to communicate the decision on the grievance at any step within the time limits, including any extension thereof, shall allow the grievant to proceed to the next step.

e. No member may take a grievance to arbitration except with the approval and participation of the Association.

f. All grievances which proceed to formal settlement procedures, all requests for review and all arbitration actions shall be submitted on forms attached to this Agreement as Appendices B, C, and D, respectively, and shall be signed by the grievant. The University may refuse consideration of a grievance not filed in accordance with this Article.

g. If the matter being grieved relates to an act or omission by a Vice President or the President, the grievance may be presented at Step Two or Step Three, as appropriate, but in the manner provided at Step One.

h. A grievance may be withdrawn by a grievant at any time.

i. A grievance may not be presented under this Article for an act or omission which occurred prior to the effective date of this Agreement.

Section 5. Presentation of Grievances.

General. Time is of the essence in the presentation of grievances. The time limits provided below for the initial presentation of a grievance are measured from the date of the act, omission or commencement of condition upon which the grievance is based or from such later date that the member knew or reasonably should have known of the act, omission or commencement of the condition upon which a grievance is based. In no event, however, will a grievance be presented more than 120 days after the act, omission or commencement of the condition on which the grievance is based. The 120 day limit will be extended for those members who are out of the country or are on an official leave of absence so that the member will have a reasonable time after returning to campus to present a grievance.

Informal Procedure. The grievant and, if needed by the grievant to facilitate resolution, a member of the Association, may discuss the grievance with the administrator most directly concerned in an attempt to resolve the grievance informally.

A grievance may be presented informally within twenty (20) days of the act, omission, or commencement of the condition on which the grievance is based. The grievant should apprise the administrator that the matter being presented is a grievance arising under the terms of this Agreement in order to distinguish the matter from a noncontractual complaint. The administrator to whom the grievance is presented shall communicate a decision to the grievant within five (5) days of the presentation of the grievance.

Formal Procedure. If the matter is not satisfactorily resolved by informal means, the following formal grievance procedure may be involved.

Step One. A grievance shall be presented to the appropriate dean within forty (40) days of the act, omission or commencement of the condition on which the grievance is based. The grievance shall be presented on the grievance form (Appendix B). The grievance shall set forth the act, omission or condition on which the grievance is based, the date thereof as precisely as possible, the specific provision of this Agreement which is in dispute, and the remedy sought.

Upon the grievant's written request, fifteen (15) days postponement of formal consideration shall be allowed for a further attempt to achieve informal resolution of the grievance.

The appropriate dean shall meet with the grievant within five (5) days of receipt of grievance form (Appendix B), or within five (5) days of the expiration of the period of time allowed to Step One for informal resolution. The dean shall send a decision in writing to the grievant and the Association within ten (10) days of this meeting.

Step Two. If the grievant is not satisfied with the decision at Step One, a request for review (Appendix C) may be filed with the cognizant Vice President within ten (10) days of date of the decision at Step One. The cognizant Vice President or a designee shall meet with the grievant within five (5) days of receipt of the request for review to discuss the grievance. The cognizant Vice President shall send his or her decision concerning the grievance in writing to the grievant and to the Association within ten (10) days of such meeting.

Step Three. If the grievant is not satisfied with the decision at Step Two, a request for review (Appendix C) may be filed with the President within ten (10) days of the date of the decision at Step Two. The President or his designee shall meet with the grievant within ten (10) days of receipt of this request, and the President shall send a decision in writing to the grievant and to the Association within ten (10) days of such meeting.

Step Four. If the grievant is not satisfied with the decision at Step Three, a request for review (Appendix C) may be filed with the Chancellor within ten (10) days of the decision at Step Three, OR with the approval of the Association the grievant may give written notice (Appendix D) to the President of intent to proceed to arbitration.

Notice of intent to arbitrate must be filed with the President of the University within twenty (20) days of date of the decision at Step Three.

If a request for review is filed with the Chancellor, the right to arbitrate the grievance is thereby waived. The Chancellor or a designee shall meet with the grievant within ten (10) days of receipt of a request for review, and the Chancellor shall send a decision in writing to the grievant and to the Association within ten (10) days of such meeting.

As used in this Section, the date of filing of a request for review shall be the date that the form (Appendix C) is received in the administrative office. The date of the decision is the date the decision is sent to the grievant. Dates of filing and dates of decisions shall be entered into a log maintained for that purpose and signed by the person who actually received or sent the document being logged.

Article 18. ARBITRATION

Section 1. Arbitration of Grievances. If a grievance brought under Article 17 (Grievances) is not resolved at Step Three of that procedure, the Association may submit the matter to arbitration. Notice of intent to arbitrate (Appendix D) must be filed with the President of the University within twenty (20) days of the date of the decision at Step Three. If no notice of intent to arbitrate is filed within the time limit, the right to arbitrate is thereby waived.

Section 2. Matters within the scope of Article 19 (Contract Matters: Resolution of Disputes) may be submitted to arbitration if not resolved in the manner provided in Article 7 (Consultation). Notice of intent to arbitrate must be served on the opposing party within twenty (20) days of the last consultation meeting at which the issue was discussed.

Section 3. Within ten (10) days of receipt of notice of intent to arbitrate, the parties shall meet to attempt to agree upon an arbitrator. If the parties are unable to agree upon an arbitrator within five (5) days of the meeting, the party initiating arbitration shall request the American Arbitration Association to submit a list of five (5) arbitrators, none of whom shall be an employe of the Oregon State System of Higher Education unless both parties have agreed to the contrary.

Each party shall alternately strike a total of two (2) names from the list of five (5); the remaining person shall be selected as the arbitrator. The party initiating the arbitration shall strike the first name.

If the arbitrator selected cannot hold the hearing or render a decision within the time limits provided herein and either party does not agree to an extension of time, a new list of five (5) names shall be requested from the American Arbitration Association and the selection procedure as provided herein shall be repeated.

Section 4. Submission Agreement. Within ten (10) days of receipt of notice of intent to arbitrate, the parties shall meet to draft a submission agreement. They shall attempt to agree on the precise issue to be submitted to arbitration, stipulation of facts, joint exhibits and any other matter designed to expedite the arbitration process.

If the parties are unable to agree on the precise issue to be submitted, each party shall submit its own version of the issue to be decided. The arbitrator shall then decide the precise issue to be arbitrated. Such decision shall be made prior to determining arbitrability.

Section 5. Conduct of the Hearing. The arbitrator shall hold the hearing in Portland, Oregon unless otherwise agreed to by the parties. The hearing shall commence within sixty (60) days of the arbitrator's acceptance of the case, unless both parties agree to an extension of time.

If the arbitrator or either party requests that post-hearing briefs be submitted, the arbitrator shall establish a date for the submission of such briefs and the hearing will be deemed to have been closed by such date.

Section 6. Arbitrability. In any proceeding under this Article for which there is a submission agreement, the first matter to be decided is the arbitrator's jurisdiction to act. In the absence of a submission agreement, the arbitrator shall first decide the issue to be arbitrated as provided in Section 4 of this Article; then the arbitrator's jurisdiction shall be decided. If arbitrability is in dispute between the parties, the arbitrator shall hear the parties on the question before deciding the matter of arbitrability, which shall be announced. Upon concluding that the issue is arbitrable, the arbitrator shall normally proceed with the hearing at that time, provided that either party may seek judicial review of the arbitrator's decision as to jurisdiction and have the hearing on the merits delayed until such review is completed. Filing for such review shall occur within a reasonable time; otherwise the other party may request the arbitrator to proceed with the hearing.

Upon concluding that the arbitrator has no power to act, the arbitrator shall not hear the matter or make any decision or recommendation regarding the merits of the issue.

Section 7. Authority of the Arbitrator. The arbitrator shall neither add to, subtract from, modify or alter the terms or provisions of this Agreement. The arbitrator shall refrain from issuing any statement, opinion or conclusions not essential to determination of the issue submitted.

The arbitrator shall have no authority to hear or decide issues or grievances which allege discrimination on a basis prohibited by state or federal law, regulation or rule, except that concerning union activity.

Except as otherwise provided in this section, the arbitrator shall have no authority to hear or decide any issue or grievance contesting an "academic judgment" as defined in Section 3, Article 17 (Grievances).

In cases involving "academic judgment" or other administrative judgment involving the exercise of discretion, the arbitrator shall not substitute her judgment for that of the faculty or the administrator. Nor shall the arbitrator review such decision except for the purpose of determining whether the provision of this Agreement have been followed. If the arbitrator determines that procedural steps have not been followed where an exercise of "academic judgment" or administrative discretion is involved, the arbitrator shall remand the matter to the appropriate official to be reconsidered in accordance with relevant procedural steps. In such case, the arbitrator may not direct that a member be reappointed, promoted or awarded indefinite tenure. The arbitrator, however, may direct that the status quo ante be maintained until a judgment is made having properly followed appropriate procedural steps. If such an arbitration award results in continuing a member in employment beyond the time of the effective date of timely notice of non-renewal of an appointment, the award shall also waive further timely notice appointments; and with respect to a member whose timely notice is related to the last year before indefinite tenure must be granted (OAR 580-21-120 and 580-21-125), any extension of an appointment will be deemed to be in accordance with OAR 580-21-130.

The arbitrator shall have no authority to award monetary damages or penalties.

The arbitrator shall have no authority to make any decision limiting or interfering in any way with the powers, duties and responsibilities of the University and the Board which have not been expressly limited by this Agreement.

Section 8. Arbitrator's Decision. The arbitrator derives his authority wholly and exclusively from the express terms of this Agreement. The decision of the arbitrator shall be final and binding upon the parties as to the issues submitted, provided that either party may appeal the decision on the basis of repugnance to law, jurisdiction or that the arbitrator exceeded authority granted by this Agreement.

The decision of the arbitrator shall be issued within thirty (30) calendar days of the close of the hearing unless the parties have agreed to additional time.

The decision of the arbitrator shall be in writing and shall set forth findings of fact, reasoning and conclusions on the issue submitted.

Section 9. Costs. All fees and expenses of the arbitrator shall be divided equally between the parties.

Each party shall bear the cost of preparing and presenting its own case. Expenses of witnesses, if any, shall be borne by the party calling the witness. The cost of any transcripts required by the arbitrator shall be divided equally between the parties and each party shall be furnished a copy thereof. If either party wishes a transcript of the hearing, it may have one made at its own expense, but shall provide the arbitrator and the other party a copy at no charge.

Section 10. Miscellaneous Provisions. Except as modified by the provisions of this Agreement, arbitration proceedings shall be conducted in accordance with the then prevailing Voluntary Labor Arbitration Rules of the American Arbitration Association or, if the parties agree, in accordance with the Association's Expedited Arbitration Rules.

Unless decided otherwise by the arbitrator for good cause, the burden of proof in all matters shall be upon the party initiating the arbitration.

Article 19. CONTRACT MATTERS: RESOLUTION OF DISPUTES

Section 1. If the Association believes that a provision of this Agreement which confers rights upon it has been violated, misinterpreted or improperly applied, or if the University believes the Association has violated, misinterpreted or improperly applied a provision of this Agreement, the complaining party may file with the other a written complaint citing the provision of this Agreement alleged to have been violated, misinterpreted or improperly applied, the approximate date of the alleged act or omission, the person responsible and the remedy sought. Such a complaint may be filed within thirty (30) days of the date of the alleged act or omission.

Section 2. In the manner provided in Article 7 (Consultation), the parties shall meet to attempt to resolve the matter.

Section 3. If the complaint is resolved by the parties, the resolution will be reduced to writing and signed by the parties within five (5) days of the meeting on the complaint.

Section 4. If the complaint is not resolved, the complaining party may give to the other notice of intent to arbitrate within the time limits provided in Article 18 (Arbitration), except as provided in Section 5 of this Article.

Section 5. In consideration of the agreement to use arbitration as the sole method (when so elected) of deciding unresolved disputes alleging violation, misinterpretation or improper application of the express terms of this Agreement, the parties hereby waive their respective rights to have such matters resolved by the Employment Relations Board as provided by ORS 243.672(1)(g) and 243.672(2)(d); except that disputes relating to definition of the bargaining unit shall be resolved by the Employment Relations Board and not by arbitration.

Section 6. The procedures provided in this Article and in Article 17 (Grievances) cannot both be invoked concerning the same problem, dispute, grievance or complaint.

Article 20. RETRENCHMENT

Definition: In this Article "Department" will be used to refer to departments, programs or other similar administrative units.

Section 1. In a viable, complex and multifaceted university, it may be necessary to adjust departments and staff. Historically, these adjustments have been accomplished by attrition and by not renewing appointments in specific departments. The provisions of this Article and accompanying procedures do not apply to this historical practice.

The modification of departments generated solely by changes in curricula or in the educational programs or mission of the University is accomplished through usual curricular mechanisms and the provisions of this Article likewise do not apply.

Section 2. The President of the University may declare that a condition of financial exigency exists or that a condition requiring departmental reductions or eliminations exists, after fulfilling the requirements of AR 580-21-315 and this Article.

a. A condition of financial exigency may be declared if the President finds that the University's budget has insufficient funds to do all of the following:

   i. maintain all essential programs and services;
   ii. finance the full compensation of all tenured faculty;
   iii. finance the full compensation of faculty on fixed term appointment until the end of the period of appointment;
   iv. finance the full compensation of all other faculty until the end of an appointment, including the providing of timely notice.

   The University's Division of Continuing Education is considered to be a separate entity for purposes of financial exigency.

b. A condition requiring reduction or elimination of a department may be declared if the President finds that institutional operations within a reduced budget, or failure to reallocate funds, would result in a serious distortion of the academic or other essential programs and services of the University if retrenchment procedures were not implemented.

   Recognizing the requirements of AR 580-21-315 for prior consultation with the Chancellor and the Board, the parties agree that factual disputes regarding the existence of a condition of financial exigency or the existence of a condition requiring reduction or elimination of a program or department shall not be subject to the grievance, contract dispute resolution or arbitration articles of this Agreement. An allegation that procedures set forth in this Article were not adhered to is a proper subject for a grievance.

Section 3. Before deciding to declare a condition of financial exigency, or to reduce or eliminate a department, the President or his designee shall consult with appropriate faculty councils.

a. At any time that the President finds that the University's financial condition is such that a declaration of financial exigency or of departmental reduction or elimination may become unavoidable, the

President shall promptly notify the Association and the members of the bargaining unit.

b. After issuance of such notice (a of Section 3) appropriate representatives of the University shall offer to meet with representatives of the Association for the purpose of presenting and discussing a full description and analysis of the financial condition of the University. If Association representatives fail to accept within a reasonable time an offer to meet, the University shall have no further obligation to consult with the Association or hear their views under the provisions of this Article.

c. After the issuance of such notice (a of Section 3), the President or his designee shall present a full description an analysis of the financial condition of the University at a regular or special meeting of the Faculty Senate, and to such other faculty councils as the President may deem appropriate.

d. When the meetings provided for in (b) and (c) of Section 3 above are held, a time will be established when comments and recommendations will be due in the President's Office. The time allowed for such consideration will be at least thirty (30) days unless the President finds and states that circumstances require a response in a shorter period of time.

The President will give thoughtful consideration to such comments and recommendations as are submitted by the established time; and will engage in such further discussions, including efforts to reconcile varying points of view, as he may deem useful. He or his designee will, at the Association's request, meet with representatives of the Association to hear and discuss the Association's comments and recommendations.

The parties agree to use their good offices to facilitate Senate consideration, and further agree that the Senate, at its discretion, may hear and consider the views of any person or organization during their deliberations of these matters.

e. In reaching a decision whether to declare a condition of financial exigency or a condition requiring departmental reduction or elimination, the President will consider, among other matters, institutional guidelines concerning the mission and educational development of the institution; departmental effectiveness and productivity; enrollment historical, current and projected; the state of development of departments; the balance between academic personnel and other elements of the budget; the dependence of other departments in the University on the department proposed for reduction or elimination; and the availability of similar programs and services elsewhere in the community.

f. After fulfilling the requirements of Sections 2 and 3 of this Article, the President may declare that a financial exigency exists or that the reduction or elimination of a department is necessary.

Section 4. After a declaration is made, a provisional plan will be announced and an opportunity provided for faculty and the Association to comment on the plan, including suggesting alternatives for amelioration of the financial condition. The provisional plan will include tentative assignments of reductions to departments and the time by which responses are to be submitted. The time allowed for such considerations shall be at least thirty (30) days unless the President finds and states that circumstances require a response in a shorter period of time. During this time the President will receive and consider such comments and recommendations from the Faculty Senate as the Senate chooses to submit.

The Association, and the faculty of the department assessed a budget reduction in the provisional plan, may make recommendations within the time allotted concerning the manner in which the tentative reductions are to be accomplished. Forms of budget curtailment which may be proposed and considered include, but are not limited to, voluntary leaves of absence, shared appointments, temporary salary reductions, temporary reductions in FTE, layoffs for fixed period, and indefinite layoffs.

If the final plan being considered by the President will result in the layoff of more faculty than recommended by the departmental faculty, the President or his designee shall meet with the departmental faculty (or representatives thereof) for further discussion of departmental recommendations.

Following completion of the procedures outlined above, the President will announce a final plan and will notify departments to be affected of the amounts and nature of reductions to be applied.

Section 5. Prior to the effective date of layoff of any faculty member on continuing appointment, a good faith effort shall be made by the Administration to place that faculty member in another instructional or noninstructional position within the University. If this effort fails the Administration shall make reasonable efforts to assist the faculty member in finding suitable employment elsewhere.

a. If the President's final plan (Section 4) includes layoff of faculty, the order of layoff within a department shall be as specified in (b) and (c) below. However, this order shall be modified to ensure:

   i. the ability of the remaining faculty to meet adequately the needs of the department, including the need for various areas of specialization, and

   ii. compliance with the University's Affirmative Action Program and Goals.

b. Order of layoffs within a department:

   i. fixed term faculty
   ii. faculty on annual tenure
   iii. faculty on indefinite tenure.

c. Within each of the categories (b i-iii) above, layoffs shall be made in inverse order to the length of continuous service at the University. ("Length of service" shall include time spent on sabbatical leaves.)

The President's decisions affecting order of layoff shall be based on departmental recommendations made in accordance with existing departmental procedures. These recommendations shall be submitted in a timely manner through the appropriate dean or vice president; but if no timely recommendations are received from the department, the President may receive recommendations from the appropriate dean or vice president.

d. Although a member may be laid off, no member of the bargaining unit shall be terminated as a result of financial exigency or departmental reduction or elimination except as provided in (h) below. Tenure-related faculty who have been laid off shall retain all the benefits and privileges of a member on official leave without pay, except that the University's obligation to recall from layoff is specifically limited to the conditions set forth below.

e. No department in which a layoff is in effect shall hire new faculty until all tenured faculty eligible for recall in that department have been offered recall, unless failure to hire new faculty would seriously impair the ability of the department to meet its needs as determined in (a)(i) of Section 4 above at the time layoff decisions were made, or unless the President finds and declares after receiving and considering a departmental recommendation reviewed by the appropriate dean and vice president that failure to do so would seriously impair the department's ability to meet adequately its current needs, including the needs for various areas of specialization.

f. A faculty member recalled from layoff shall be offered reemployment at the same rank and at a salary rate not less than that which the member was receiving at the time of layoff.

g. Any offers of reinstatement within a department shall be made in inverse order to the order of layoff. The faculty member will have thirty (30) days from the date the offer is sent in which to accept the offer. If no acceptance is received in writing within the thirty (30) day period, the faculty member will be deemed to have declined the offer and the University will thereafter have no further obligation to the member. It is the responsibility of the faculty member to keep the University apprised of a current mailing address.

h. Faculty on indefinite tenure who have not been reemployed as of June 15 of the year following five (5) full academic years after layoff shall be deemed to have been given timely notice and their employment will have been terminated as of the June 15 date. Faculty on annual tenure who have not been reemployed as of June 15 of the year following two (2) full academic years after layoff shall be deemed to have been given timely notice and their employment to

have been terminated as of the June 15 date. The employment of faculty on fixed term appointments who have not been reemployed as of the date of the end of their term of appointment shall be deemed to have been terminated on the date.

i. In cases of layoff resulting from financial exigency the Administration shall make every effort to provide timely notice to affected members of the bargaining unit.

Article 21. RETRENCHMENT HEARINGS

This article provides hearing procedures for layoff (not for cause) rising out of deliberations concerning financial exigency or program reduction or elimination.

Section 1. A faculty member who is laid off or whose salary is reduced as a result of decisions made under Article 20 (Retrenchment) shall be given by the University a statement describing (a) the basis for the layoff or salary reduction, (b) the manner in which the decision was made, and (c) the information and data relied upon in reaching the decision. A faculty member who receives such notice shall have the right to a hearing.

The hearing shall be before a committee of three (3). The committee shall consist of one (1) member named by the President, one (1) member named by the Association, and a hearings officer chosen by agreement between the President and the Association. If the President and the Association are unable to agree on a hearings officer, they shall request the ERB to provide a list of qualified hearing officers. From this list a hearings office shall be chose in the same manner as an arbitrator is to be chosen under Article 18 (Arbitration).

Section 2. The faculty member requesting the hearing shall have the right to counsel.

Section 3. The faculty member may choose whether to have an open or a closed hearing.

Section 4. Within fifteen (15) days of receipt of notice of layoff, the faculty member shall file with the President of the University a request for a hearing, which shall identify the allegation to be made in the hearing.

Section 5. The scope of these hearings is limited to allegations that the decision to layoff or to reduce the salary of a faculty member was arbitrary or not made in good faith or that new evidence justifies a reconsideration of such a decision.

Section 6. The committee shall issue a report within thirty (30) calendar days after the conclusion of the hearings. Committee recommendations shall be sent to the President of the University for action. The President may remand the matter to the Committee for further proceedings. The President will announce his decision within

thirty (30) calendar days after receiving the Committee's original recommendations or those submitted after remand.

Section 7. If the President takes no action within thirty (30) calendar days after receipt of the final Committee report, or if his action does not provide redress for the faculty member, the faculty member may appeal to the Oregon State Board of Higher Education in accordance with AR 580-21-390.

Article 22. SALARY

Section 1. For work performed on or after July 1, 1985, Portland State University shall continue to pay on behalf of members then participating in the Public Employe Retirement System the statutorily required employe contribution (ORS 237.071), including the amount required under ORS 237.073 if the TIAA-CREF option has been selected. Such payments on behalf of members shall continue for the life of this agreement or until such earlier time as a member shall cease to be a participating member of PERS.

The full amount of members' required contributions paid by Portland State University to PERS on behalf of members shall be considered as "salary" within the meaning of ORS 237.003(8) for the purpose of computing "final average salary" within the meaning of ORS 237.003(12), but shall not be considered "salary" for the purposes of determining the amount of employe contributions required to be contributed pursuant to ORS 237.071. The contributions paid by the University on behalf of members shall be credited to employe accounts pursuant to ORS 237.071(2), and ORS 237.073 if applicable, and shall be considered to be employe contributions for the purposes of ORS 237.001 to 237.320.

Section 2. The salary base for determining the salary increase for unit members currently employed shall be the member's preceding contract amount less any stipends.

Section 3. Across the board salary adjustments for bargaining unit members performing satisfactory work will be made as follows:

July 1, 1985:	5.00%
July 1, 1986:	3.00%
May 1, 1987:	2.00%

Section 4. In 1985-86 and 1986-87, the amounts to accompany promotion in rank shall be as follows:

	9 Month Appointment	12 Month Appointment
To Assistant Professor	$ 1,000	$ 1,200
To Associate Professor	1,400	1,800
To Professor	2,400	2,900

Section 5. In order to enhance the development of Portland State University, the OSBHE will continue to use the University of Oregon and Oregon State University as comparators for Portland State University in the allocation of salary increase funds. This Section shall remain in effect until September 15, 1987, or until the implementation of a sucessor agreement, whichever occurs first.

Section 6. Merit adjustments will be made on an individual basis effective on the following dates and such increases will average the percentages indicated for bargaining unit members:

July 1, 1985:	3.00%
July 1, 1986:	3.75%
May 1, 1987:	1.25%

a. Procedures for the determination of salary increases and redress of inequities shall be in accordance with Section 5 of the PORTLAND STATE UNIVERSITY Policy and Procedures for Promotions, the Award of Tenure, and Salary Increases unless otherwise specified in this agreement. The University reaffirms that merit increases will be awarded based upon high standards of work performance and growth in the areas of effective teaching and student advising, graduate instruction, research and creative works, scholarship, and university and community service, as appropriate to the rank and assignment of the faculty member.

b. Departmental procedures for determining salary increases may include a method for identifying and recommending redress of inequities within the department.

Section 7. Prior to implementing any decision to award salary increases to groups of members other than increases decided upon by established procedures (e.g. across-the-board, merit, and promotional increases and correction of salary anomalies), the University will notify the Association of the decision and will furnish the Association with a reasonable written description of the nature and purpose of the increases.

Section 8. No member of the bargaining unit will be employed at a 1.00 FTE salary rate for 9 months of service at less than the rate for instructors in each year of the agreement. The following 1.00 FTE minimums by rank shall apply:

	1985-86		1986-87	
	9 Month	12 Month	9 Month	12 Month
Instructor	$15,000	$17,500	$15,500	$18,000
Assistant Professor	17,500	21,300	18,100	22,000
Associate Professor	21,200	25,800	21,900	26,600
Professor	27,100	32,600	27,900	33,500

Section 9. A salary anomalies pool of $39,201 for 1985-86 shall be made available to correct present and/or potential salary anomalies which

might result in prohibited discrimination and shall be expended within the bargaining unit.

Article 23. HEALTH AND DENTAL INSURANCE

Section 1. The University will contribute up to $137.80 per month toward the premium of any health insurance plan offered by the State Employee Benefits Board in which members enroll, including coverage for dependents. The University increase will be effective on the first of the month following the ratification by the Board of this Agreement. The University will increase the 1985-86 contribution towards such insurance the same dollar amount as other similar state employes under SEBB for the second year of the Agreement.

Section 2. The University will contribute up to $10.62 per month toward the premium of any dental insurance plan offered by the State Employee Benefits Board in which employes enroll. The University increase will be effective on the first of the month following the ratification by the Board of this Agreement. The University will increase the 1985-86 contribution towards the insurance the same dollar amount as other similar state employes under SEBB for the second year of this Agreement.

Section 3. Members on leave without pay shall be allowed to continue all insurance plans in which they have subscribed through the University for the maximum length of time permitted by each policy by paying the premium in the manner directed by the University. If any such policies permit less than one (1) year of coverage while on leave without pay, the University will seek to increase the maximum time to one year when such policy is renewed or reissued.

Article 24. COMMITTEE ON SALARY ANOMALIES

Section 1. Within ninety (90) days after the final judgment (including any appeals) in Penk v. Oregon State Board of Higher Education, the Association and the University shall each designate three members of a Committee on Salary Anomalies to develop recommendations to the President to give effect to the court's decision.

Section 2. Thereafter, every other year, the President will designate a committee to study salary anomalies. This committee will use an appropriate regression analysis to determine the extent of anomalies and make recommendations to the President for corrective action, if required.

Article 25. SABBATICAL LEAVES

Section 1. Sabbatical leaves should be granted when it can be shown that the faculty member will use the time in a manner which will provide increased service to the institution either through study and research, writing, advanced study or travel related to the applicant's field or professional activities.

Section 2. A faculty member who has more than ten (10) years continuous full-time service since the last sabbatical leave may be given highest priority for the award of sabbatical leave.

Section 3. A faculty member on academic year appointment is eligible for sabbatical leave after six (6) years of continuous full-time service. For the purpose of calculating eligibility a member shall be deemed to have served full-time during any academic year when for the benefit of the University set out in writing the member's employment is less than full-time provided that the total FTE for the academic year plus the FTE from Summer employment during either the immediately preceding or immediately following Summer term is at least .81 of the academic year FTE.

Section 4. If split sabbaticals are approved, eligibility for sabbatical shall be calculated as if the terms of leave were taken consecutively starting with the first term of said sabbatical.

Section 5. In cases where it is necessary to choose between several applications for sabbatical leave from the same department or unit, preference will not be given based on salary.

Article 26. PARKING

Section 1. The University shall limit access to the restricted permit parking spaces in the Portland State University Parking Lot C-1 to University employes, including student teacher supervisors, field service personnel in the School of Social Work, and personnel in the Division of Continuing Education, whose university responsibilities necessitate daily travel to and from locations in the Portland Metropolitan area.

Section 2. The University shall issue a restricted parking permit to University employes eligible for access to Lot C-1; the restricted parking permit issued pursuant to this section shall also allow the University employe to park in any other non-restricted permit parking space in University facilities.

Section 3. The restricted permit parking spaces in Lot C-1 shall entitle the permit holder access to the lot but not to a specific parking space. The maximum number of these restricted parking permits to Lot C-1 shall be thirty-five (35).

Section 4. University employes eligible for restricted parking permits for use in Lot C-1 shall request, subject to Section 5 of this Article, such permits in the manner prescribed in OAR 577-70-015 and shall be assessed a monthly permit rate equivalent to the rate for a disabled faculty and staff reserved parking permit.

Section 5. Pursuant to the provision of OAR 577-70-015, the Vice President for Finance and Administration shall retain the prerogative of determining which University employes meet the minimum criteria for eligibility for access to the restricted parking spaces in Lot C-1.

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Section 6. University employee issued a restricted parking permit for Lot C-1 are subject to all other provisions of OAR 577-70-005 through 577-70-050.

Section 7. Notwithstanding the provisions of Sections 1 through 6 of this Article, the Vice President for Finance and Administration may designate reserved parking spaces in Lot C-1.

Article 27. OUTSIDE EMPLOYMENT

Jointly desiring to preserve the overall high standards of professional conduct characteristic of members of the bargaining unit and to reduce to the lowest possible minimum any neglect of duty or abuse of facilities, the Association and the University agree as follows:

Section 1. Nothing in this Article is intended to discourage a member from engaging in outside employment in order to increase income, professional reputation, or service to the community.

Section 2. Each member shall give careful consideration to the amount and character of outside employment, with due regard to the member's paramount responsibilities within the University. A member shall not engage in any outside employment which substantially interferes with the full and faithful performance of all institutional obligations.

Section 3. A full-time member who proposes to engage in outside professional employment shall notify the department head in advance concerning the nature and extent of the activity proposed. If the department head is concerned that the proposed activity may impinge on the objectives stated above or may represent a potential conflict of interest the department head may require the faculty member to put the request in writing so that a determination may be made.

Section 4. Any member who proposes to engage in outside professional activity which may directly compete with any academic program of the University shall notify the department head in advance and in writing concerning the nature and extent of the activity proposed. Private individual instruction and tutoring is not construed as competitive employment. The University reserves the right to determine whether the proposed activity is directly competitive, and if so determined, to disapprove the proposed activity. If such proposed outside professional activity is not approved by the department head, such employment shall not be accepted unless and until approval is granted by the appropriate vice president, whose decision will be given expeditiously in cases of urgency.

Section 5. A member engaging in outside professional employment shall take reasonable precautions to ensure that the outside employer understands that the member is accepting such employment as a private citizen and not as an employe, agent, or spokesman for the University.

Section 6. Except as provided by OAR 577-71-005 through 577-71-035 and except for incidental use of one's office and telephone, a member engaging in any outside employment shall not use the offices,

telephones, facilities, supplies or other services of the University in connection with such outside employment.

Article 28. NOTICES AND COMMUNICATIONS

Customary or required notices or communications, unless otherwise provided herein, shall be sent as follows:

for the Association:

President
Portland State University Chapter, American
Association of University Professors
c/o Portland State University
Post Office Box 751
Portland, Oregon 97207

for the University:

President
Portland State University
Post Office Box 751
Portland, Oregon 97207

for the Board of Higher Education:

Chancellor
Oregon State Board of Higher Education
Post Office Box 3175
Eugene, Oregon 97403

Article 29. INDEMNIFICATION

The Association shall indemnify and hold harmless the University, its agents, representatives, and employes, against all claims, demands, or judgments, including reasonable costs of defense, which occur as a result of the University's compliance with Articles 4, 5, and 8 of this Agreement.

Claims which have not been adjudicated will not be settled without the concurrence of the Association.

Article 30. STRIKES AND LOCKOUTS

Section 1. For the duration of this Agreement, the Association, on its own behalf and on behalf of members of the bargaining unit, agrees not to participate or engage in, aid, or assist any strike concerning a dispute under this Agreement. For the purposes of this Article, a strike includes any stoppage or cessation of work, slow down of any kind, or other interference with the operations of the University,

whether done in concert or singly for the purposes defined in ORS 243.650(19). Any member of the bargaining unit who violates any provision of this Article shall be subject to disciplinary action including loss of pay, suspension, and discharge. Nothing contained in this Article shall be construed to be a limitation of any right of the University to any other remedies, legal or equitable, to which the University may otherwise be entitled.

Section 2. In the event of a violation of this Article, the Association upon request of the University, shall immediately use its best efforts to effect the return to normal work routine of the members involved.

Section 3. For the duration of this Agreement, the University agrees that it will not lock out members of the bargaining unit.

Article 31. SEPARABILITY

Notwithstanding the provisions of ORS 243.702(1), it is the expressed intent of the parties that in the event any provisions of this Agreement shall at any time be declared invalid by any court of competent jurisdiction or rendered invalid through federal or state regulation or decree, such action shall not invalidate any remaining provision of this Agreement. All provisions not declared invalid shall remain in full force and effect. Upon the request of either party, both parties shall enter into negotiations for the purpose of attempting to arrive at a mutually satisfactory replacement for such invalidated provision.

Article 32. TOTALITY OF AGREEMENT

The parties acknowledge that during the negotiations which resulted in this Agreement, the Association and the University had the unlimited right and opportunity, consistent with previously adopted groundrules, to present demands and proposals with respect to any and all matters lawfully subject to collective bargaining; that all understandings and agreements negotiated are set forth in this Agreement; and that this Agreement constitutes the entire and sole agreement between the parties for its duration.

Each party, for the lifetime of this Agreement, agrees that the other shall not be obligated to bargain collectively with respect to any subject or matter, whether or not referred to or covered by this Agreement, even though such subject or matter may not have been within the knowledge or contemplation of the parties at the time they negotiated or signed this Agreement.

Nothing in this Article precludes mutual agreement of the parties to alter, amend, supplement or otherwise modify in writing any of the provisions of this Agreement. In the event the parties meet to modify this Agreement as provided in this paragraph, student representatives shall be sent timely notice of the meeting and shall be entitled to participate in the manner provided by ORS 243.778.

Article 33. NEGOTIATION OF SUCCESSOR AGREEMENT

For the purpose of negotiating a successor agreement, the Association will send written notice to the University 180 days prior to the expiration of this Agreement specifying those new subjects or sections of this Agreement it proposes to negotiate. The University shall send written notice to the Association 165 days prior to the expiration of this Agreement specifying those new subjects or sections of this Agreement it proposes to negotiate. Those sections of this Agreement not opened by said notices or by subsequent mutual agreement shall automatically become a part of any successor agreement. Negotiation of the successor agreement shall begin no later than 150 days prior to the expiration of this Agreement or such date thereafter as may be mutually agreed upon by the parties.

Article 34. TERM OF AGREEMENT

This Agreement shall be effective from July 1, 1985 through June 30, 1987.

FOR THE UNIVERSITY:

Joseph C. Blumel, President

Michael A. Corn

J. Kenneth Harris

Joe Sicotte

FOR THE ASSOCIATION:

Jack C. Finley, President

Larry Steward
Chief Spokesperson

Lee Blankenship

Thomas D. Morris

John D. Daily

Christine K. Thompson

The State of Oregon acting by and through
the State Board of Higher Education
on behalf of Portland State University

W. T. Lennon, Executive Vice Chancellor

April 30, 1986
Date

APPENDIX A

STATEMENT OF CONSCIENTIOUS OBJECTION

I _____ do hereby swear or affirm that I am fundamentally opposed on the ground of conscience to collective bargaining, and, therefore, find it objectionable to be required to join with, participate in or support an organization which has as one of its purposes representing employes in collective bargaining.

I further authorize that a sum equivalent to local AAUP dues be deducted from my salary on a monthly basis and paid into the Portland State University Unrestricted Student Scholarship Fund for so long as a valid fair share agreement between the Association and the University is in effect.

_____ _____
Date

Subscribed and sworn to before me this _____ day of _____, 198__.

_____
Notary Public for Oregon

My Commission expires: _____

APPENDIX B

GRIEVANCE

Date:

Name: AAUP Representative:

Department: Mailing Address:

Provision of the Agreement Allegedly Violated:

Article: Section:

Statement of grievance (include date of act or omission complained of):

Remedy sought:

I will be represented in this grievance by: (check one)

_____Myself _____AAUP _____ _____

I (do)_____ (do not)_____ want a postponement for up to fifteen (15) days to seek informal resolution of this grievance.

Grievant's signature _____

APPENDIX C

GRIEVANCE - REQUEST FOR REVIEW

_____My grievance dated _____ presented to _____ has not been satisfactorily resolved by the attached decision* and I wish the decision to be reviewed at Step Two.

_____My grievance dated _____ presented to _____ at Step Two has not been satisfactorily resolved by the attached decision* and I wish the decision to be reviewed by the President at Step Three.

_____The attached decision* of the President does not satisfactorily resolve my grievance dated _____ and I wish to have the decision reviewed by the Chancellor at Step Four. I acknowledge that in asking for review by the Chancellor, I am waiving my right to arbitrate the grievance.

_____ _____
Grievant's Signature Date

*If no decision was received within the time limits provided in the grievance procedure, please check here _____.

Please attach a copy of the grievance (Appendix B) and all written decisions received at prior steps, if any.

APPENDIX D

NOTICE OF INTENT TO ARBITRATE

The American Association of University Professors hereby gives notice of its intent to proceed to arbitration concerning the grievance of _____ dated _____, which was not resolved satisfactorily at Step Three of the grievance procedure.

The following statement of the issue to be presented for arbitration is proposed:

_____ _____

Authorized Representative, AAUP Portland State University — Date

I hereby authorize the AAUP-PSU to proceed to arbitration with my grievance. I understand and agree that by filing this notice I hereby waive any rights concerning review by the Chancellor, the Board of Higher Education or judicial review as a contested case under the Administrative Procedures Act (ORS Chapter 183) of the decisions rendered at prior steps of the grievance procedure. I hereby authorize the AAUP and the University, or their representative, to use copies of material in my personnel file which are pertinent to this grievance and to furnish copies of the same to the arbitrator.

_____ _____

Grievant's Signature — Date

MEMORANDUM OF UNDERSTANDING

The parties agree that in the best interests of the University, each party shall strive to insure that the percentage of courses in the University that are taught by members on tenure-related appointments not be reduced.

For the University

For the Association